

AMENDED IN ASSEMBLY APRIL 22, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 958

Introduced by Committee on Agriculture

February 26, 2015

An act to amend ~~Section 410 of~~ Sections 76535, 76600, 76602, 76604, 76650, 76651, 76652, 76700, 76701, 76702, 76705, 76706, 76707, 76708, 76709, 76712, 76714, 76715, 76716, 76717, 76718, 76750, 76800, 76851, 76852, 76900, 76901, 76901.5, 76903, 76904, 76904.5, 76905, 76906, 76907, 76908, 76909, and 76910 of, to add Article 9.5 (commencing with Section 76961), Article 10 (commencing with Section 76971), and Article 11 (commencing with Section 76981) to, and to repeal and add Article 9 (commencing with Section 76950) of, Chapter 16 of Part 2 of Division 22 of, the Food and Agricultural Code, relating to ~~the Department of Food and Agriculture~~, salmon marketing and development, and making a appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 958, as amended, Committee on Agriculture. ~~Department of Food and Agriculture~~. *California Salmon Marketing and Development Act.*

(1) Existing law, the California Salmon Marketing and Development Act, creates the California Salmon Council, consisting of 9 voting members, appointed by the Secretary of Food and Agriculture, and 5 nonvoting members, as provided. Under existing law, the council is required to provide advice and investigations for, and perform duties delegated to it by, the secretary, including programs to promote education, research, and public information regarding the consumption of salmon and salmon products. Existing law provides for referendum voting by fishermen, as defined, to determine whether the act should

be implemented and, periodically, to review whether the operation of the act and the council should be continued. Upon approval of the referendum, existing law requires fishermen to pay specified assessments to the secretary and requires the secretary to expend and invest those moneys for purposes of the act. A violation of the act is a misdemeanor.

This bill would change the composition of the council to include 11 voting members, appointed by the secretary, and 3 nonvoting members and would make various changes to the requirements covering commercial salmon fishing, with regard to notification of the adopted regulations by the secretary.

The bill would require the secretary to establish a list of handlers, defined to include processors, receivers, and wholesalers, and would provide for referendum voting by those handlers to determine whether they shall be subject to the act. Upon approval of the referendum, the bill would require handlers to pay specified assessments to the secretary and would require the secretary to expend and invest those moneys for purposes of the act, thereby making an appropriation. The bill would include handlers, if subject to the act, in the periodic referenda to determine whether the operation of the act and the council should be continued and would make other conforming changes. By authorizing handlers to be subject to the requirements of the act, the violation of which is a misdemeanor, the bill would impose a state-mandated local program.

~~Existing law states the intent of the Legislature that the Department of Food and Agriculture, in cooperation with appropriate county officials and industry representatives, develop mutually satisfactory sources of nonstate funding to augment budget programs in the areas of county agricultural commissioners and weights and measures.~~

~~This bill would make a clarifying change to the statement of intent.~~

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 76535 of the Food and Agricultural Code
- 2 is amended to read:
- 3 76535. (a) "Handler" means any of the following:
- 4 (a)
- 5 (1) A processor.
- 6 (b)

(2) A receiver.

~~(e)~~

(3) A wholesaler.

~~(d)~~

(4) An exporter.

~~(e)~~

(5) An individual licensed or working for a partnership, corporation, or any other business unit or organization licensed pursuant to subdivision (a) of Section 8032 of the Fish and Game Code and engaged in the California commercial salmon fishery.

(b) "Handler" does not include a commercial salmon vessel operator who sells salmon directly to another person.

SEC. 2. Section 76600 of the Food and Agricultural Code is amended to read:

76600. The Legislature finds and declares that ~~the provisions of this chapter are~~ is enacted in the exercise of the power of this state for the purposes of protecting and furthering the public health and welfare.

SEC. 3. Section 76602 of the Food and Agricultural Code is amended to read:

76602. The Legislature declares that the purposes of this chapter are as follows:

(a) ~~To enable~~ *Enable* the salmon fishery, with the aid of the state, to develop, maintain, and expand the state, nationwide, and foreign markets for salmon and salmon products harvested, processed, manufactured, sold, or distributed in this state for human consumption, and the use and consumption of salmon and salmon products in those markets.

(b) ~~To enable~~ *Enable* the salmon fishery to purchase, where there are willing sellers, the allocation rights to harvest salmon, as they may exist, of other salmon user groups to provide fishermen, and thereby the salmon fishery, greater access to salmon stocks than otherwise may have been provided pursuant to a conservation, management, or allocation agreement.

(c) In aid, but not in limitation, of the purpose in subdivision (a), ~~to authorize and enable the director~~ *secretary* to formulate and effectuate, directly or in cooperation with other agencies, organizations, including the Oregon Salmon Commission, the West Coast Fisheries Development Foundation, and the National Fish and Seafood Promotion Council, and instrumentalities ~~which~~ *that*

1 are specified in this chapter, sales stimulation and ~~consumer~~,
2 *consumer* or other educational programs designed to increase the
3 use and consumption of salmon and salmon products for human
4 consumption.

5 (d) ~~To provide~~ *Provide* funds for the administration and
6 enforcement of this chapter by mandatory fees to be collected in
7 the manner ~~which is~~ prescribed in this chapter.

8 *SEC. 4. Section 76604 of the Food and Agricultural Code is*
9 *amended to read:*

10 76604. If any provision of this chapter or the application thereof
11 to any person or circumstances is held invalid, that invalidity does
12 not affect other provisions or applications of ~~the act which this~~
13 *chapter that* can be given effect without the invalid provision or
14 application, and to this end the provisions of this ~~act~~ *chapter* are
15 severable.

16 *SEC. 5. Section 76650 of the Food and Agricultural Code is*
17 *amended to read:*

18 76650. ~~The director~~ *secretary* shall administer and enforce this
19 chapter, and may exercise any of the administrative powers which
20 are conferred by Sections 11180 to 11191, inclusive, of the
21 Government Code upon a head of a department. In order to
22 effectuate the declared purposes of this chapter, ~~the director~~
23 *secretary* may contract to carry out the declared intent and purposes
24 of this chapter.

25 *SEC. 6. Section 76651 of the Food and Agricultural Code is*
26 *amended to read:*

27 76651. Upon recommendation by the council, ~~the director~~
28 *secretary* may adopt, consistent with this chapter, any regulations
29 ~~which that~~ cover the administration and enforcement of this chapter
30 that may be necessary to carry out the purposes and attain the
31 objectives of this chapter, except ~~the director~~ *secretary* shall not
32 engage in any salmon promotion activity or pursue the purchase
33 of allocation rights to harvest salmon without the approval of a
34 majority of the voting members of the council.

35 *SEC. 7. Section 76652 of the Food and Agricultural Code is*
36 *amended to read:*

37 76652. Upon the adoption of any regulations under this chapter,
38 a copy of the regulations shall be ~~posted on a bulletin board which~~
39 ~~shall be maintained by the director in his or her office~~ *displayed*
40 *on the department's Internet Web site*. No regulation shall become

1 effective until five days after the date of ~~that posting~~ *display on*
 2 *the Internet Web site* and ~~mailing~~. ~~The director shall mail a copy~~
 3 ~~of the notice of the issuance of the regulations~~ *mailing* to every
 4 marketing association and every receiver that is directly affected
 5 by the regulations whose name and address may be on file in the
 6 office of the ~~director~~ *secretary* and to every person who files in
 7 the office of the ~~director~~ *secretary* a written request for ~~that notice~~.
 8 *a copy of the regulations.*

9 *SEC. 8. Section 76700 of the Food and Agricultural Code is*
 10 *amended to read:*

11 76700. There is in the state government the California Salmon
 12 Council. The council shall be composed of ~~nine~~ *11* voting members
 13 and their alternates, and ~~five~~ *three* nonvoting members.

14 *SEC. 9. Section 76701 of the Food and Agricultural Code is*
 15 *amended to read:*

16 76701. The voting members of the council shall be appointed
 17 by the ~~director~~ *secretary*, after consultation with the Director of
 18 Fish and ~~Game~~ *Wildlife*, giving due consideration to proper
 19 geographic distribution. The ~~nine~~ *11* members shall include:

20 (a) Five commercial salmon vessel operators or their
 21 representatives, and their alternates.

22 (b) ~~Two~~ *Three* handlers who are receivers or processors or their
 23 representatives, and their alternates.

24 (c) ~~One representative~~ *Two representatives* of a handler who is
 25 an exporter or a wholesaler, and ~~an alternate~~ *their alternates*.

26 (d) One public member, and an alternate.

27 *SEC. 10. Section 76702 of the Food and Agricultural Code is*
 28 *amended to read:*

29 76702. (a) The commercial salmon vessel operators and their
 30 alternates shall be selected from lists of nominees submitted by
 31 marketing associations and any organization deemed to represent
 32 the majority of organized commercial salmon vessel operators,
 33 and from nominations by individual commercial salmon vessel
 34 operators.

35 (b) The receivers, processors, wholesalers, or exporters and
 36 their alternates shall be selected from lists of nominees submitted
 37 by an organization deemed to represent the majority of those
 38 organized groups in the state, and from individual receivers,
 39 processors, wholesalers, and exporters.

(c) The public member and alternate shall be selected by the ~~director~~ secretary from a list submitted by the commercial salmon vessel operators and handler members of the council.

SEC. 11. Section 76705 of the Food and Agricultural Code is amended to read:

76705. Any vacancy in the membership of the council ~~which~~ that occurs during the unexpired term shall be filled by the ~~director~~ secretary for the unexpired term from the eligible nominees. No council member or alternate shall serve more than two consecutive three-year terms. Service as an alternate does not disqualify a person to then serve two additional terms as a member, and a member who was appointed for a one-year or a two-year term may serve two additional three-year terms.

SEC. 12. Section 76706 of the Food and Agricultural Code is amended to read:

76706. The ~~director~~ secretary may remove any member of the council or alternate for cause, and, upon that removal, there is a vacancy ~~which~~ that shall be filled in the manner as provided for the unexpired term in Section 76705.

SEC. 13. Section 76707 of the Food and Agricultural Code is amended to read:

76707. The ~~director~~ secretary shall give notice, not later than January 31 of each year, of the vacancies that will exist upon the expiration of terms on March 31, in writing, to all marketing associations and organizations deemed to represent the majority of organized fishermen, or receivers, processors, wholesalers, and exporters, and shall issue any press releases and public statements that the ~~director~~ secretary deems appropriate requesting nominations.

SEC. 14. Section 76708 of the Food and Agricultural Code is amended to read:

76708. (a) The notice requesting nominations shall indicate that nominations shall be mailed *or sent electronically* to the ~~director~~ secretary at his or her office in Sacramento and that the ~~director will~~ secretary shall consider nominations ~~received by mail~~ *sent electronically or* postmarked not later than March 1.

(b) Nominations shall set forth all of the following:

(1) The name and address of each nominee.

(2) Whether each nominee is being nominated as a member or alternate member.

1 (3) The type of category for which the nominee is being
2 nominated.

3 (4) The list of qualifications and supporters, if any, for the
4 nominee.

5 (5) The name and address of the nominating marketing
6 association, organization, or individual.

7 *SEC. 15. Section 76709 of the Food and Agricultural Code is*
8 *amended to read:*

9 76709. The nonvoting members of the council shall be
10 representatives of the following agencies, as selected by the
11 ~~director~~: *secretary*:

12 (a) The department.

13 (b) The Department of Fish and ~~Game~~ *Wildlife*.

14 (c) The California Sea Grant Program.

15 ~~(d) The West Coast Fisheries Development Foundation or the~~
16 ~~Coastal Fisheries Foundation.~~

17 ~~(e) The California State World Trade Commission.~~

18 *SEC. 16. Section 76712 of the Food and Agricultural Code is*
19 *amended to read:*

20 76712. (a) The council shall select annually from its voting
21 members, to serve at its pleasure, a chair and vice chair.

22 (b) The chair and vice chair, together with four other voting
23 members, selected annually by the council, shall constitute the
24 executive committee of the council. The executive committee shall
25 have and exercise any powers of the council that the council may
26 delegate to it.

27 *(c) If handlers have become subject to this chapter pursuant to*
28 *Article 9.5 (commencing with Section 76961), the officers and the*
29 *other members of the executive committee shall be equally divided*
30 *between commercial salmon vessel operators and handlers.*

31 *SEC. 17. Section 76714 of the Food and Agricultural Code is*
32 *amended to read:*

33 76714. The voting members of the council shall receive forty
34 dollars (\$40) per day per diem for each day spent in actual
35 attendance at the meetings or on the business of the council and
36 shall be reimbursed for necessary traveling and other expenses
37 incurred in the performance of their official duties, except, during
38 the first year of council operations, when members shall serve at
39 their own expense. Nonvoting members shall be reimbursed at the
40 same rate as voting members when their agencies do not pay their

1 expenses. Alternates shall only be paid expenses and per diem for
2 meetings at which they serve as the replacement for the ~~regular~~
3 ~~voting~~ member.

4 *SEC. 18. Section 76715 of the Food and Agricultural Code is*
5 *amended to read:*

6 76715. No member of the council, except ~~a member~~ *members*
7 of the executive committee, shall receive compensation for more
8 than three days' service per ~~month, except the chair, who~~ *month.*
9 *The chair* may receive compensation for not more than seven days
10 per month.

11 *SEC. 19. Section 76716 of the Food and Agricultural Code is*
12 *amended to read:*

13 76716. The ~~director~~ *secretary* may require any employee or
14 agent of the council to give a fidelity bond, executed by a surety
15 company ~~which~~ *that* is authorized to do business in this state, in
16 favor of the ~~director~~ *secretary*, in the sum, and containing any
17 terms and conditions, that the ~~director~~ *secretary* may prescribe.
18 The cost of the fidelity bonds of employees or agents of the council
19 shall be paid from the funds ~~which~~ *that* are collected pursuant to
20 this chapter.

21 *SEC. 20. Section 76717 of the Food and Agricultural Code is*
22 *amended to read:*

23 76717. No member or employee of the council shall be held
24 responsible individually to any person for liability on any contract
25 or agreement of the council. All salaries, expenses, costs,
26 obligations, and liabilities ~~which~~ *that* arise out of the administration
27 and enforcement of this chapter are payable only from funds ~~which~~
28 *that* are collected pursuant to ~~the provisions of~~ this chapter.

29 *SEC. 21. Section 76718 of the Food and Agricultural Code is*
30 *amended to read:*

31 76718. An alternate member of the council shall sit as a ~~regular~~
32 ~~voting~~ member of the council if the member for whom he or she
33 is an alternate fails for any reason to attend any meeting of the
34 council. The alternate member shall be compensated and
35 reimbursed in the same manner and to the same extent as a ~~regular~~
36 ~~voting~~ member when so serving. When so serving, the alternate
37 member has all of the powers, duties, liabilities, and immunities
38 of the member in whose place he or she is serving, except that the
39 alternate to the chair or vice chair shall not succeed to the functions
40 of these offices.

1 SEC. 22. *Section 76750 of the Food and Agricultural Code is*
2 *amended to read:*

3 76750. The duties of the council shall be advisory, except as
4 to those duties that may be delegated to it by the secretary or as
5 otherwise designated in this chapter. The council may, subject to
6 the approval of the secretary, exercise any of the following powers
7 that may be delegated to the council by the secretary:

8 (a) ~~To recommend~~ *Recommend* to the secretary administrative
9 regulations that relate to the administration and enforcement of
10 this chapter.

11 (b) ~~To investigate~~ *Investigate* all matters that affect the
12 administration of this chapter, and to report violations of this
13 chapter to the secretary.

14 (c) ~~To employ~~ *Employ* and, at its pleasure, discharge a manager
15 and such clerical help and other employees as it deems necessary,
16 and to prescribe their duties and powers and fix their compensation.

17 (d) ~~To contract~~ *Contract* with, or employ, and at its pleasure,
18 discharge any other persons that it deems necessary, and in the
19 cases of those persons it shall employ, to outline their powers and
20 duties and fix their compensation.

21 (e) ~~To establish~~ *Establish* offices and incur expenses incidental
22 thereto.

23 (f) ~~To make~~ *Make* contracts and other agreements that may be
24 proper to promote the sale of salmon and salmon products on either
25 a local, state, national, or international basis.

26 (g) (1) ~~To cooperate~~ *Cooperate* with any other local, state, or
27 national commission, organization, or agency, whether voluntary
28 or created by state or federal law, including, but not limited to, the
29 Oregon Salmon Commission, the West Coast Fisheries
30 Development Foundation, the Coastal Fisheries Foundation, and
31 the National Fish and Seafood Promotion Council, that is
32 *Commission, and instrumentalities that are* engaged in work or
33 activities similar to the work and activities of the council, and to
34 recommend to the secretary the making of contracts and agreements
35 with those organizations or agencies for carrying on joint programs
36 of education, research, publicity, and advertising.

37 (2) ~~To recommend~~ *Recommend* to the secretary the making of
38 contracts and agreements with other councils, commodity
39 commissions, or producer organizations for joint programs of

1 publicity and advertising where those products are compatible with
2 the promotion of salmon and salmon products.

3 (3) In matters of research, ~~to~~ cooperate with organizations of
4 recognized professional standing that are adequately equipped
5 with facilities for the research that is contemplated.

6 (h) ~~To recommend~~ *Recommend* to the secretary the institution
7 and promotion of scientific research to develop or discover, or
8 both, the health, food, therapeutic, dietetic, and other uses of
9 salmon.

10 (i) (1) ~~To receive~~, *Receive*, invest, and disburse funds pursuant
11 to Article 8 (commencing with Section 76900).

12 (2) ~~To allocate~~ *Allocate* funds to agencies not specifically or
13 solely engaged in carrying on research or promotion for salmon,
14 if the council and the secretary are satisfied that those allocations
15 will be beneficial to the California salmon fishery and will tend
16 to effectuate the declared purposes of this chapter.

17 (j) ~~To present~~ *Present* facts to, and negotiate with, state, federal,
18 and foreign agencies on matters that affect this chapter.

19 *SEC. 23. Section 76800 of the Food and Agricultural Code is*
20 *amended to read:*

21 76800. The ~~director~~ *secretary* shall conduct, or may cause the
22 council to conduct, programs of education, research, or public
23 information, ~~which~~ *that* are designed to accomplish the following
24 purposes, among others:

25 (a) Increase the consumption of salmon and salmon products.

26 (b) Gather, publicize, and diffuse accurate and scientific
27 information which shows the importance of the use and
28 consumption of salmon and salmon products in relation to the
29 public health, economy, and diet, and proper nutrition of children
30 and adults.

31 (c) Study means and methods which are employed in harvesting,
32 processing, manufacturing, marketing, and distributing salmon
33 and salmon products in order to comply with the sanitary and other
34 regulations which are imposed by municipalities, this state, and
35 the United States.

36 (d) Gather and disseminate information regarding the high
37 standards which are observed and imposed to insure pure and
38 wholesome salmon and salmon products.

39 (e) Gather and disseminate information regarding the harmful
40 effects on the public health resulting from the breakdown or

1 instability of the salmon fishery, the factors and conditions peculiar
2 to the salmon fishery which tend to cause an unbalanced
3 production, and the price of salmon and salmon products in relation
4 to the cost of other items of food in a balanced diet.

5 (f) Gather and disseminate information regarding the factors
6 which tend to promote increased consumption of salmon and
7 salmon products, stabilize the fishery, and foster a better
8 understanding and more efficient cooperation among fishermen,
9 receivers, processors, and the consuming public.

10 *SEC. 24. Section 76851 of the Food and Agricultural Code is*
11 *amended to read:*

12 76851. If the Attorney General determines under Section 76850
13 that selling allocation rights to harvest salmon would be binding
14 and consistent with California public policy and if an agreement
15 for purchase of allocation rights of harvest is determined to be
16 lawful and binding, the Director of Fish and ~~Game~~ *Wildlife* may,
17 in consultation with the ~~director~~ *secretary*, develop a program to
18 authorize the transfer of the allocation rights consistent with all
19 other state or federal laws and regulations. Upon authorization by
20 the Director of Fish and ~~Game~~ *Wildlife*, the ~~director~~ *secretary* may,
21 at a price and quantity agreed to by the council, and with funds
22 available from the council, enter into an agreement for the purchase
23 of the allocation rights to harvest from another user holding bona
24 fide rights to harvest stocks of salmon.

25 *SEC. 25. Section 76852 of the Food and Agricultural Code is*
26 *amended to read:*

27 76852. The council, in any negotiations for the purchase of
28 tribal allocations of rights to harvest, if any, however they may
29 exist, may, with the ~~director~~ *secretary*, seek federal or other funds
30 as may be available to match the council funds for the purchase
31 of allocation rights to harvest in recognition of the federal
32 government's responsibility to the Indian people and their
33 resources.

34 *SEC. 26. Section 76900 of the Food and Agricultural Code is*
35 *amended to read:*

36 76900. ~~In order to carry out the programs~~ *Programs* and
37 ~~administer administration of the activities which that~~ *are* conducted
38 pursuant to this chapter, ~~every chapter shall be funded as follows:~~

39 (a) Every fisherman who sells salmon to any person, shall pay
40 a fee, as specified in ~~Sections 76902 and 76903~~ *this article*, for

1 each pound or fraction thereof, of salmon taken and sold by the
2 fisherman. The fee shall be collected from the fisherman and
3 remitted to the ~~director~~ *secretary*, by any person licensed to receive
4 fish to whom the salmon are sold. If the salmon are sold to any
5 other person the fee shall be remitted to the ~~director~~ *secretary* by
6 the fisherman.

7 *(b) Every handler subject to this chapter pursuant to Article 9.5*
8 *(commencing with Section 76961) shall pay the fee specified in*
9 *this article for each pound or fraction thereof, of salmon received*
10 *from a fisherman. The fee shall be remitted to the secretary by the*
11 *handler.*

12 *SEC. 27. Section 76901 of the Food and Agricultural Code is*
13 *amended to read:*

14 76901. Consistent with Section 8041 of the Fish and Game
15 Code, the following persons shall remit the fees required by
16 *subdivision (a) of Section 76902* 76900 to the ~~director~~ *secretary*:

17 (a) Any person who is required to be licensed as a fish receiver
18 by Section 8033 of the Fish and Game Code, and receives salmon
19 in this state from persons conducting the activities of a commercial
20 fisherman.

21 (b) Any commercial fisherman who sells salmon to any person
22 who is not a licensed fish receiver.

23 *SEC. 28. Section 76901.5 of the Food and Agricultural Code*
24 *is amended to read:*

25 76901.5. (a) Each person who is required by this chapter to
26 collect a fee from fishermen *or pay a fee as a handler* shall
27 maintain a complete and accurate record of all transactions subject
28 to the fee. These records shall contain any information required
29 by the ~~director~~ *secretary* relating to the collection of fees, shall be
30 preserved for a period of three years, and shall be available for
31 review immediately upon demand by the ~~director~~ *secretary* or the
32 ~~director's~~ *secretary's* duly authorized agent.

33 (b) Any information obtained by the ~~director or the director's~~
34 *secretary or the secretary's* duly authorized agent from inspection
35 or audit of records shall be confidential and shall not be disclosed
36 except when required *by a court order after a hearing* in a judicial
37 proceeding.

38 *SEC. 29. Section 76903 of the Food and Agricultural Code is*
39 *amended to read:*

76903. The fees imposed under this article shall be paid monthly to the ~~director~~ *secretary* within 60 days after the last day of each month. If fees are not paid within 60 days after the month for which they are due, the ~~director~~ *secretary* shall collect amounts owing under the procedures prescribed for sales and use taxes provided in Chapter 5 (commencing with Section 6451) of Part 1 of Division 2 of the Revenue and Taxation Code, insofar as they may be applicable, and for those purposes, “board” means the department and “the date of which the tax became due and payable,” means that date 60 days after the month for which it is due.

SEC. 30. Section 76904 of the Food and Agricultural Code is amended to read:

76904. Sections 8058 to 8070, inclusive, of the Fish and Game Code apply to claims for overpayment of fees to the ~~director~~ *secretary*. For purposes of this section, “department,” as used in those sections, means the Department of Food and Agriculture, and “landing tax” means the fees imposed pursuant to this article.

SEC. 31. Section 76904.5 of the Food and Agricultural Code is amended to read:

76904.5. The ~~director~~ *secretary* may consult with and enter into agreements with the Director of Fish and ~~Game Wildlife~~ where necessary and reasonable, to assist in the administration of this chapter and in enforcing compliance with this chapter. If an agreement is established, the ~~director~~ *secretary* shall reimburse the Department of Fish and ~~Game Wildlife~~ for administrative costs associated with this chapter.

SEC. 32. Section 76905 of the Food and Agricultural Code is amended to read:

76905. After one year after the establishment of the council, and not before the commercial salmon season of 1990, the council may recommend to the ~~director~~ *secretary* an increase over and above the two cents (\$0.02) per pound fee required by Section 76902 for the council to carry out its duties under this chapter. The council shall consider the budget for the council, funding for activities conducted pursuant to Article 6 (commencing with Section 76800) and Article 7 (commencing with Section 76850), as well as the market price of salmon, landing taxes imposed by the Department of Fish and ~~Game Wildlife~~, assessments charged by marketing associations, and any other relevant factor affecting

1 the economics of the salmon fishery. The council shall, in making
2 any determination to increase fees, consult with marketing
3 associations and, if the recommended increase would exceed seven
4 cents (\$0.07) per pound of salmon sold, ~~shall conduct a ballot poll~~
5 ~~of the commercial salmon vessel operators on the director's list~~
6 ~~established pursuant to Article 9 (commencing with Section~~
7 ~~76950). After an initial ballot poll on a recommended increase~~
8 ~~exceeding seven cents (\$0.07) per pound of salmon sold, the~~
9 ~~council shall consult with marketing associations and, if the~~
10 ~~recommended increase would exceed five cents (\$0.05) per pound~~
11 ~~of salmon sold, shall conduct a ballot poll of the commercial~~
12 ~~salmon vessel operators on the director's list. The director the~~
13 ~~council shall conduct a vote of persons on the secretary's lists~~
14 ~~established pursuant to Article 9 (commencing with Section 76950)~~
15 ~~and Article 9.5 (commencing with Section 76961). The secretary~~
16 ~~may not increase any fee without a majority approval of the voting~~
17 ~~members of the council.~~

18 *SEC. 33. Section 76906 of the Food and Agricultural Code is*
19 *amended to read:*

20 76906. (a) All money that is collected by the ~~director~~ *secretary*
21 pursuant to this chapter shall be deposited in any bank, or other
22 depository that is approved by the Director of Finance, allocated
23 to the purposes of this chapter only, and disbursed by the ~~director~~
24 *secretary* or the council only for the necessary expenses that are
25 incurred by the council and the ~~director~~ *secretary* in carrying out
26 ~~the purposes and provisions of this chapter, including expenses~~
27 ~~generated by the auditing requirement contained in this section.~~
28 Money that is so collected shall be deposited and disbursed in
29 conformity with appropriate auditing regulations ~~which that~~ are
30 prescribed by the ~~director~~ *secretary*. The expenditure of the money
31 is exempt from Section 925.6 and 16304 of the Government Code.

32 (b) All expenditures by the council and the ~~director~~ *secretary*
33 shall be audited at least once every two years by one of the
34 following means:

- 35 (1) By contract with a certified public account.
36 (2) By contract with a public accountant holding a valid permit
37 issued by the California Board of Accountancy.
38 (3) By contract with a public accounting firm.
39 (4) By agreement with the Department of Finance.

1 *SEC. 34. Section 76907 of the Food and Agricultural Code is*
2 *amended to read:*

3 76907. Money~~—which~~ that is deposited pursuant to Section
4 76906 may be invested and reinvested by the Treasurer or the
5 council in any of the securities described in Article 1 (commencing
6 with Section 16430) of Chapter 3 of Part 2 of Division 4 of Title
7 2 of the Government Code, or placed in a depository as provided
8 in Chapter 4 (commencing with Section 16500) of Part 2 of
9 Division 4 of Title 2 of the Government Code, and handled in the
10 same manner as money in the State Treasury. For these purposes,
11 the money may also be combined with funds~~—which~~ that are
12 determined by the ~~director~~ secretary to be available for investment
13 pursuant to Section 58939. Any increment~~—which~~ that is received
14 from investment, reinvestment, or deposit made by the Treasurer
15 shall be remitted to the council. The Treasurer may deduct from
16 the remittance an amount equal to the reasonable cost incurred in
17 carrying out this section or may bill the council for the costs and
18 the council shall pay the costs from money~~—which~~ that is collected
19 for it pursuant to this chapter.

20 *SEC. 35. Section 76908 of the Food and Agricultural Code is*
21 *amended to read:*

22 76908. The ~~director~~ secretary, after consultation with the
23 council, shall prepare an annual budget~~—which~~ that sets forth in
24 reasonable detail the proposed expenditures~~—which~~ that the ~~director~~
25 secretary deems necessary for the performance by him or her and
26 by the department of the duties~~—which~~ that are imposed upon them
27 by this chapter. The ~~director~~ secretary shall also prepare and submit
28 to the council an annual statement, in reasonable detail, of the
29 ~~director's~~ secretary's expenditures pursuant to this chapter.

30 *SEC. 36. Section 76909 of the Food and Agricultural Code is*
31 *amended to read:*

32 76909. The ~~director~~ secretary may receive funds in amounts
33 that may be reasonable and necessary to defray the initial expenses
34 in making effective this chapter. The ~~director~~ secretary shall
35 reimburse those persons from whom those funds are received in
36 the amounts received from any funds which are received by the
37 ~~director~~ secretary pursuant to this article.

38 *SEC. 37. Section 76910 of the Food and Agricultural Code is*
39 *amended to read:*

1 76910. The ~~director~~ *secretary* may accept contributions to
2 advance the purposes of this chapter. If requested by the donor,
3 the contributions shall be segregated and separately maintained
4 for the use of the council.

5 SEC. 38. *Article 9 (commencing with Section 76950) of Chapter*
6 *16 of Part 2 of Division 22 of the Food and Agricultural Code is*
7 *repealed.*

8 SEC. 39. *Article 9 (commencing with Section 76950) is added*
9 *to Chapter 16 of Part 2 of Division 22 of the Food and Agricultural*
10 *Code, to read:*

11
12 *Article 9. Implementation and Voting Procedure for Fishermen*
13

14 76950. *On or before August 15, 1989, the secretary shall*
15 *establish a list of commercial salmon vessel operators eligible to*
16 *vote on implementation of this chapter. In establishing the list, the*
17 *secretary may require that handlers and commercial salmon vessel*
18 *operators submit the names and mailing addresses of all*
19 *commercial salmon vessel operators who harvested salmon during*
20 *the previous season, as evidenced by receipts prepared under*
21 *Section 8043 of the Fish and Game Code, together with the volume*
22 *of salmon landed. The secretary may also request the assistance*
23 *of the Director of Fish and Wildlife for the names of all commercial*
24 *salmon vessel operators who landed salmon the previous season*
25 *and the volume of landings for each vessel. The request for the*
26 *information shall be in writing and shall be subject to the*
27 *confidentiality provisions of Section 8022 of the Fish and Game*
28 *Code. The list shall be filed within 30 days following receipt of*
29 *the written notice.*

30 76951. *Any commercial salmon vessel operator whose name*
31 *does not appear upon the secretary's list of commercial salmon*
32 *vessel operators affected may have his or her name established*
33 *on the list by filing with the secretary a signed statement,*
34 *identifying himself or herself as a commercial salmon vessel*
35 *operator and furnishing evidence of having made landings the*
36 *previous year through the submission of receipts prepared under*
37 *Section 8043 of the Fish and Game Code. Failure to be on the list*
38 *does not exempt a commercial salmon vessel operator from paying*
39 *assessments under this chapter.*

1 76952. *This chapter, except as necessary to conduct an*
2 *implementation referendum vote under this article shall not become*
3 *operative until the secretary finds in an implementation referendum*
4 *conducted by the secretary under this article, that at least 40*
5 *percent of the total number of commercial salmon vessel operators*
6 *from the list established by the secretary have participated by*
7 *voting in the referendum, and the secretary finds either of the*
8 *following:*

9 (a) *Sixty-five percent or more of the commercial salmon vessel*
10 *operators who voted in the referendum voted in favor of*
11 *implementing this chapter, and the commercial salmon vessel*
12 *operators who voted in the referendum marketed 51 percent or*
13 *more of the total quantity of salmon landed in the preceding fiscal*
14 *year by all the commercial salmon vessel operators who voted in*
15 *the referendum.*

16 (b) *Fifty-one percent of the commercial salmon vessel operators*
17 *who voted in the referendum voted in favor of implementing this*
18 *chapter, and the commercial salmon vessel operators who voted*
19 *in the referendum marketed 65 percent or more of the total quantity*
20 *of salmon landed in the preceding fiscal year by all of the*
21 *commercial salmon vessel operators who voted in the referendum.*

22 76953. *The secretary shall establish a period in which to*
23 *conduct the implementation referendum which shall not be more*
24 *than 60 days in duration, and may prescribe additional procedures*
25 *as may be necessary to conduct the referendum. If the initial period*
26 *established is less than 30 days, the secretary may extend that*
27 *period. However, the total referendum period may not exceed 60*
28 *days.*

29 76953.5. (a) *Before the referendum vote is conducted by the*
30 *secretary, the proponents of the council shall deposit with the*
31 *secretary the amount that the secretary determines is necessary*
32 *to defray the expenses of preparing the necessary lists and*
33 *information and conducting the referendum vote.*

34 (b) *Any funds not used in carrying out this article shall be*
35 *returned to the proponents of the council who deposited the funds*
36 *with the secretary.*

37 (c) *Upon establishment of the council, the council may reimburse*
38 *the proponents of the council for any funds deposited with the*
39 *secretary that were used in carrying out this article, and for any*
40 *legal expenses and costs incurred in establishing the council.*

(d) After approval by the Commercial Salmon Trollers Advisory Committee created pursuant to Section 7862 of the Fish and Game Code, the Department of Fish and Wildlife may expend funds collected pursuant to Section 7861 of the Fish and Game Code, for payment to the Secretary of Food and Agriculture to pay necessary costs incurred in conducting the implementation referendum vote. If the commercial salmon vessel operators who voted in the implementation referendum voted in favor of implementing this article, as provided in Section 76952, the council shall reimburse the Commercial Salmon Stamp Account in the Fish and Game Preservation Fund all amounts received from that fund.

76954. Nonreceipt of a ballot shall not invalidate a referendum.

76955. (a) If the secretary finds that a favorable vote has been given, the secretary shall so certify and give notice of the favorable vote to all commercial salmon vessel operators whose names and addresses may be on file with the secretary.

(b) If the secretary finds that a favorable vote has not been given, the secretary shall so certify and declare all provisions of this chapter inoperative.

SEC. 40. Article 9.5 (commencing with Section 76961) is added to Chapter 16 of Part 2 of Division 22 of the Food and Agricultural Code, to read:

Article 9.5. Implementation and Voting Procedure for Handlers

76961. On or before ____, the secretary shall establish a list of handlers eligible to vote on whether they shall be subject to this chapter. In establishing the list, the secretary may require that handlers provide receipts of the quantity of salmon received from commercial salmon vessel operators in the previous season. The secretary may also request the assistance of the Director of Fish and Wildlife in compiling the list. The request for the information shall be in writing and shall be subject to the confidentiality provisions of Section 8022 of the Fish and Game Code. The list shall be filed within 30 days following receipt of the written notice.

76962. Any handler whose name does not appear upon the secretary's list of handlers may have his or her name established on the list by filing with the secretary a signed statement, identifying himself or herself as a handler. Failure to be on the

1 *list does not exempt a handler from paying assessments under this*
2 *chapter.*

3 *76963. This chapter shall not apply to handlers until the*
4 *secretary finds in a referendum conducted by the secretary under*
5 *this article that at least 40 percent of the total number of handlers*
6 *from the list established by the secretary have participated by*
7 *voting in the referendum, and the secretary finds either of the*
8 *following:*

9 *(a) Sixty-five percent or more of the handlers who voted in the*
10 *referendum voted in favor of being subject to this chapter, and the*
11 *handlers who voted in the referendum handled 51 percent or more*
12 *of the total quantity of salmon landed in the preceding fiscal year*
13 *by all the handlers who voted in the referendum.*

14 *(b) Fifty-one percent of the handlers who voted in the*
15 *referendum voted in favor of being subject to this chapter, and the*
16 *handlers who voted in the referendum marketed 65 percent or*
17 *more of the total quantity of salmon landed in the preceding fiscal*
18 *year by all of the handlers who voted in the referendum.*

19 *76964. The secretary shall establish a period in which to*
20 *conduct the referendum that shall not be more than 60 days in*
21 *duration, and may prescribe additional procedures as may be*
22 *necessary to conduct the referendum. If the initial period*
23 *established is less than 30 days, the secretary may extend that*
24 *period. However, the total referendum period may not exceed 60*
25 *days.*

26 *76965. (a) Before the referendum vote is conducted by the*
27 *secretary, the proponents of this article shall deposit with the*
28 *secretary the amount that the secretary determines is necessary*
29 *to defray the expenses of preparing the necessary lists and*
30 *information and conducting the referendum vote.*

31 *(b) Any funds not used in carrying out this article shall be*
32 *returned to the proponents of this article who deposited the funds*
33 *with the secretary.*

34 *(c) Upon passage of the referendum, the council may reimburse*
35 *the proponents of this article for any funds deposited with the*
36 *secretary that were used in carrying out this article, and for any*
37 *legal expenses and costs incurred in approval of this article.*

38 *76966. Nonreceipt of a ballot shall not invalidate a referendum.*

39 *76967. (a) If the secretary finds that a favorable vote has been*
40 *given, the secretary shall so certify and give notice of the favorable*

1 *vote to all handlers whose names and addresses may be on file*
2 *with the secretary.*

3 *(b) If the secretary finds that a favorable vote has not been*
4 *given, the secretary shall so certify and declare this article*
5 *inoperative.*

6 *SEC. 41. Article 10 (commencing with Section 76971) is added*
7 *to Chapter 16 of Part 2 of Division 22 of the Food and Agricultural*
8 *Code, to read:*

9
10 *Article 10. Continuation*
11

12 *76971. (a) Between January 1, 2019, and February 28, 2019,*
13 *and in the same period each five years thereafter, the secretary*
14 *shall, by the public hearing procedure, and if appropriate, the*
15 *procedure specified in this article, determine whether the council*
16 *program provided for in this chapter shall continue in effect.*

17 *(b) If the secretary finds from evidence received at the hearing*
18 *that a substantial question exists as to whether the council program*
19 *is contrary to or does not effectuate the declared purposes or*
20 *provisions of this chapter or receives in writing a referendum*
21 *petition with the signatures of 25 percent or more of the number*
22 *of commercial salmon vessel operators who made landings in the*
23 *previous year, as evidenced by receipts prepared under Section*
24 *8043 of the Fish and Game Code, and, if applicable, 25 percent*
25 *or more of the handlers who are subject to this chapter, the council*
26 *program shall be submitted to referendum as provided in this*
27 *article.*

28 *76972. If the secretary determines that a referendum procedure*
29 *is appropriate, the secretary shall establish a referendum period*
30 *of not to exceed 30 days during which period ballots shall be*
31 *submitted to every commercial salmon vessel operator and, if*
32 *applicable, every handler subject to this chapter on a statewide*
33 *basis. If the secretary determines that the referendum period does*
34 *not provide sufficient time for the balloting, the secretary may*
35 *extend the referendum for an additional period not to exceed 30*
36 *days. The ballots shall provide a “yes” or “no” voting alternative*
37 *to the following question: “Shall the California Salmon Council*
38 *be continued for the next five fiscal years commencing April 1,*
39 *following this referendum?”*

1 76973. *If the council program is submitted to a referendum as*
2 *provided in this article, the secretary shall find that commercial*
3 *salmon vessel operators and, if applicable, handlers subject to*
4 *this chapter statewide have approved the council program if the*
5 *secretary finds either of the following:*

6 (a) *Sixty-five percent or more of the total number of commercial*
7 *salmon vessel operators and handlers, who voted in the referendum*
8 *and who harvested 51 percent or more of the total amount of*
9 *salmon landed during the previous fiscal year by all commercial*
10 *salmon vessel operators and handlers who voted in the referendum,*
11 *approve the program.*

12 (b) *Fifty-one percent or more of the total number of commercial*
13 *salmon vessel operators and handlers, who voted in the review*
14 *referendum and who harvested 65 percent or more of the total*
15 *amount of salmon landed during the previous fiscal year by all*
16 *commercial salmon vessel operators and handlers who voted in*
17 *the review referendum, approve the program.*

18 76974. (a) *This chapter shall continue if commercial salmon*
19 *vessel operators and handlers vote for continuation in accordance*
20 *with the requirements of this article.*

21 (b) *This chapter shall not continue in operation if commercial*
22 *salmon vessel operators and handlers vote not to continue in*
23 *accordance with the requirements of this article.*

24 (c) *If commercial salmon vessel operators vote for continuation*
25 *and handlers do not vote for continuation, or if handlers vote for*
26 *continuation and commercial salmon vessel operators do not vote*
27 *for continuation, this chapter shall continue to be operative for*
28 *the group voting for continuation and shall no longer apply to the*
29 *group voting against continuation.*

30 SEC. 42. *Article 11 (commencing with Section 76981) is added*
31 *to Chapter 16 of Part 2 of Division 22 of the Food and Agricultural*
32 *Code, to read:*

33
34 Article 11. Termination
35

36 76981. *If the commercial salmon vessel operators and the*
37 *handlers vote to terminate the council pursuant to Article 10*
38 *(commencing with Section 76971), the council shall remain in*
39 *existence for the purpose of furnishing the secretary with a*
40 *complete record of its outstanding financial obligations, accrued*

1 and to accrue. The secretary shall pay from the money deposited
2 and disbursed any outstanding obligations and any obligations
3 incurred by the secretary and the department under the terms and
4 provisions of this section. Any money that remains shall be retained
5 by the secretary to defray the expenses of formulation, issuance,
6 administration, or enforcement of any subsequent program for
7 salmon promotion. If no such program is undertaken within a
8 period of three years from the date of termination of the council,
9 that money shall be withdrawn from the approved depository and
10 paid into the special account for enhancement and restoration
11 programs established pursuant to Section 7861 of the Fish and
12 Game Code.

13 SEC. 43. No reimbursement is required by this act pursuant
14 to Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.

22 SECTION 1. ~~Section 410 of the Food and Agricultural Code~~
23 ~~is amended to read:~~

24 ~~410. It is the intent of the Legislature that the Department of~~
25 ~~Food and Agriculture, in cooperation with appropriate county~~
26 ~~officials and industry representatives, develop mutually satisfactory~~
27 ~~sources of nonstate funding to augment budget programs in the~~
28 ~~areas of county agricultural commissioners and county sealers of~~
29 ~~weights and measures.~~